Supreme Court, U.S.
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In the Supreme Court of the United States

ANESH GUPTA, PETITONER

v.

WALT DISNEY WORLD COMPANY

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

ANESH GUPTA
Pro-Se Petitioner

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Orlando, FL – 32821
Telephone: (321)-230-4040
Dated: January 14, 2008

QUESTIONS PRESENTED

1. What is the proper order and nature of proof in complaints of perjury and obstruction of justice in civil judicial proceedings.?

2. Whether the order to award costs to the prevailing party, pursuant to Federal Rules of Civil Procedure 54 (d) (1), included in the final order on merits, is collateral to the final decision.

3. What may properly be used to test qualifications for employment ?

4. Whether the Eleventh Circuit misapplied the Supreme Court holding in *McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)* and created direct conflict with Second Circuit; when it considered Defendant's evidence in determining whether Plaintiff has met his prima facie burden.

5. Whether the Eleventh Circuit created direct conflict with the Second Circuit; when it decided on the question of fact, related to existence of similarly situated employees.

PARTIES TO THE PROCEEDINGS

The following party is petitioner in this Court: Anesh Gupta.

The following party is respondent in this court and was Appellee in the court of appeals: Walt Disney World Company.

The following parties were defendants in the district court: Walt Disney World Company; The Walt Disney Company; Michael D. Eisner, Individually and in his official capacity as president and chief executive officer of The Walt Disney Company; Robert A. Iger, Individually and in his official capacity as chief operating officer of The Walt Disney Company; and Al Weiss, Individually and in his official capacity as president of Walt Disney World Company.

CORPORATE DISCLOSURE STATEMENT

The Walt Disney Company is the parent company of Walt Disney World Company.

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In the Supreme Court of the United States

ANESH GUPTA, PETITONER

v.

WALT DISNEY WORLD COMPANY

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Pro-Se Petitioner Anesh Gupta ("Anesh"), respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-8a) is not reported. The order of the court of appeal (App., *infra*, 9a-10a) is also unreported. The opinion of the district court (App., *infra*, 11a-20a) and additional orders of the district court (App., *infra*, 21a–22a, 23a–27a, 28a–29a, 30a–33a, 34a–35a, and 36a) are also unreported.

JURISDICTION

The order of the court of appeals was entered on August 21, 2007. On Nov. 26, 2007, Justice Thomas extended the time within which to file a petition for a writ of certiorari to and including January 14, 2008. The judgment of the court of appeals was entered on Nov. 27, 2007. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. Petitioner Anesh Gupta ("Anesh") belongs to Asian Race, is of Brown Color, and is from Indian National Origin. Respondent Walt Disney World Company ("Disney") and its officers, executives, employees and/or agents willfully, maliciously, knowingly, intentionally and purposely conspired to deprive and deprived Anesh of his Constitutional protected right to be free from race, color and/or national origin discrimination, by restraining the qualified Anesh to work and/or to be hired as Table Server at the Norway Pavilion of the Epcot theme park, in place of Q-1 Visa holder foreign workers who are of different race, color and national origin, other than that of Anesh; and whose visa petitions are sponsored by Disney and/or its agents.

Anesh was employed by Respondent Walt Disney World Company ("Disney"), from May to December 2003 as part of the company's College Program (a six-month internship program for college students). He then worked in a second

internship program from June 2004 to May 2005, when the program ended. During this time, Anesh worked in various capacities, including as a role hopper and a door host at the nightclub, Motion.

Since June – July 2004 working as a role hopper, Anesh was trained and started working as a Cultural Representative of the Country of Norway in the Norway Pavilion of Epcot theme park. In March or April 2005, Anesh started working extra hours as a stocker at Akershus Restarurant in the Norway Pavilion. The Norway Pavilion is a component of the World Showcase of Epcot theme park.

Disney claims that the World Showcase, which opened in 1982, is a permanent international exposition whose mission is to provide the public an opportunity to experience and learn about the culture, traditions and accomplishments of eleven nations from around the world. Epcot guests experience the particular country through each pavilion's portrayal of life in the represented country, including its architecture, food, merchandise and costumes. Guests learn about the country by interacting with Cultural Representatives of the country who share with guests their culture, traditions, language, and history.

Whereas the fact is, that the Restaurant in the Norway Pavilion is primarily in the business of food service. Any exchange of the cuisine, history, and art of Norway with the restaurant's patrons is peripheral to that primary purpose.

While employees of different race, color and national origin other than that of Anesh; who did

not speak the language of the country they were representing, were not raised in the country they were representing; and were not communicating and explaining the customs, traditions and culture of the country they were representing to the public based on their own first-hand experience, were working in all the guest contact positions in the Norway Pavilion; Anesh expressed an interest to the management to work as a Server in the Restaurant in the Norway pavilion.

On the instructions of the management Anesh took Disney Classes, applied for and was evaluated by the recruiting department to assess his abilities and qualifications for the position, and subsequently was placed on the waiting list to be hired as a Table Server at the Restaurant in the Norway Pavilion. While waiting a position to open up, Anesh successfully completed four days of on the job server training at the Restaurant in the Norway pavilion to work the breakfast, lunch and dinner shifts, and after being evaluated by the management, starting working seven days a week as a table server in the restaurant at the Norway pavilion, successfully performing the duties and responsibilities of the position, meeting the legitimate expectations of the employer, while waiting to be hired as a full-time server at the Akershus restaurant in the Norway pavilion.

Thereafter, in and around the last week of June 2005, Patricia A Wright Labor Manager of Epcot Food and Beverage, who harbored impermissible motive against Anesh encountered him and made remarks to Anesh, while acting within the scope of her employment. Ms Wright

said to Anesh as to why he wants to work in Norway pavilion; and that he cannot work there, and directed the plaintiff not to go for work at the Norway pavilion as he is not "Norwegian"; whereas all the other employees who were of different race, color and national origin, other than that of the Anesh, and were working in various guest contact positions in the Norway Pavilion, according to her, were eligible to work at the said location.

Next day when Anesh reported for work for his server shift at the Norway Pavilion, he was told by the management that they have received a phone call not to allow Anesh to work there while all the employees of different race, color and national origin other than that of Anesh, who were working in all the guest contact positions in the Norway Pavilion were allowed to work th re.

Disney restrained Anesh to work as a server in the Norway pavilion and refused to enter into an employment contract with him for a table server position at the restaurant in the Norway Pavilion because of Anesh being a member of a protected class. Disney kept the full-time server positions open and entered into employment contract with less qualified applicants who were different from Anesh's race, color and national origin. Anesh's race, color and/or national origin was/is a motivating factor in Disney and its executives, officers, agents and/or employee's, employment decisions, which lead to Anesh suffering adverse employment action, loss of earnings, humiliation, loss of enjoyment of life, mental anguish and pain, for which he has been

damaged.

Anesh approached different tiers of management to seek remedy, who with actual knowledge and with deliberate indifference, ratified the subordinate's actions and/or consciously chose to ignore his plight, effectively ratifying the said unlawful discrimination /deprivation of rights.

Disney and its officers, executives, employees and/or agents fabricated evidence in an attempt to create evidence for legitimating the said discrimination – created post hoc fabrication of qualification; forged and fabricated employment records; all the American employees (other than the international employees) working in various guest contact positions in Norway Pavilion, were transferred or their job responsibilities were changed, some of them were working in those positions for the last several years; redesigned job functions – even though Disney did not honestly believed his proffered reason for adverse employment decision.

Anesh was the last employee to start work in the unchanged environment, and the first victim of Disney's claimed job restructuring.

Anesh was asked and/or allowed by Disney and its executives, officers, agents and/or employees to approach the federal law enforcement agencies and/or court of law if Anesh was not satisfied with their decision. Subsequently, Anesh filed the complaint with the District Court that Disney discriminated against him on the basis of his race, color and national origin, in violation of 42 U.S.C. § 1981 and Title

VII, 42 U.S.C. § 2000e *et seq.* and also with various Federal and State law enforcement agencies.

2. Disney in violation of labor laws, immigration laws and anti trust laws of the United States maintains an illegal cultural exchange program in the world showcase of Epcot theme park, which opened in 1982. Disney is (mis)using the non immigrant Q-1 Visa program created by the Congress in the Immigration and Nationality Act of 1990 (which does not require a certification from the U. S. Department of Labor and which does not have any numeric cap limit); to provide Disney with insecure foreign employees on a regular basis, and on whom Disney exercises deportation powers

3. The District Court held that evidence of immigration law violations, tax evasion, and illegal drug use is wholly irrelevant to Plaintiff's claim of employment discrimination, (App., *infra*, 30a – 36 a).

4. Anesh underwent training and did worked several shifts as the cultural representative of the country of Norway, in the Norway Attractions at the Norway Pavilion of Epcot Theme Park since June – July 2004. During the discovery, Disney produced forged work schedules of Norway Attractions at Epcot Theme Park, deleting the name of Anesh from those work schedules. Anesh brought this fact before the Honorable District Court, that Disney and its Executives, Officers, Employees and/or Agents are withholding, tampering with, destroying and/or fabricating the evidence related to the law suit.

Disney filed a false affidavit claiming that the work schedules produced in the form that they are kept in the usual course of business, and have not been altered or modified in any way.

Anesh had substantial need for those schedules to prove that he was qualified to work in the Norway Pavilion and to prove his cause. But, because of the said act of forgery of documents in judicial proceeding, obstruction of justice and perjury committed by Disney, the District Court held that, "It is apparent from the documents produced that the schedule data is maintained electronically and that a sort run by cast member does not exclude particular employees," (App., *infra*, 21a – 27a). Anesh was seriously prejudiced by the District Court's said order.

5. Subsequently, Disney filed a motion for summary judgment claiming that Anesh could not speak Norwegian, had not been raised in Norway and did not have first-hand knowledge of Norway's customs and traditions. The Honorable District Court granted the motion to Disney, holding that Anesh did not meet Disney's requirement that servers be culturally authentic to Norway and that this was a legitimate, non-discriminatory reason for barring Anesh from working as a server at Restaurant Akershus in the Norway pavilion, (App., *infra*, 11a – 20a).

The Final Summary Judgment was granted while Anesh was unable to complete his discovery due to the fact that the Disney and its Executives, Officers, Employees and/or Agents forged the documents sought for discovery by Anesh to prove his cause; and that the District Court determined

the prima facie case of Anesh, on the basis of Disney's alleged evidence. Subsequently, Anesh filed his appeal in the United States Court of Appeals for the Eleventh Circuit.

6. Anesh filed a Motion with the Honorable Court of Appeals, during the pendency of the appeal, for an Order Staying the judgment and / or Order of the Honorable District Court dated Mar. 27, 2007 awarding costs to Disney, which Disney obtained by committing fraud in judicial proceedings. The Court of Appeals denied the Motion holding that as Anesh did not appeal the July 5, 2007, order concerning taxation of costs or the amended bill of costs, the relief Anesh seeks is outside the scope of this appeal, (App., *infra*, 9a – 10a). While the District Court had held that Fed. R. Civ. P. 54(d)(1) provides that costs are allowed to a prevailing party "as of course," unless the court otherwise directs, (App., *infra*, 28a – 29a).

7. Subsequently Anesh filed a motion for extension of time to file writ of certiorari with this Court, and On Nov. 26, 2007, Justice Thomas extended the time within which to file a petition for a writ of certiorari to and including January 14, 2008.

8. On Nov. 27, 2007, the court of appeals issued the decision affirming the summary judgment in favor of Disney. The court of appeals granted Disney's motion to strike portions of Anesh's brief , on the basis that allegations about which Disney complains were not supported by citation to the record, and the evidence attached to Anesh's brief was not presented to the district court.

The court of Appeals held that Anesh failed to establish a prima facie case of discrimination for at least two reasons. First, he did not establish that he was qualified and Second he failed to establish that he was treated differently from other similarly situated employees. The court further held that Anesh provided no support for his allegation that Disney removed his name from the work schedules produced during discovery, (App., *infra*, 1a – 8a). The Court of appeals also determined the prima facie case of Anesh, on the basis of Disney's alleged evidence.

REASONS FOR GRANTING THE PETITION

This case warrants an exercise of this Court's certiorari jurisdiction.

The court of appeals has decided the important questions that the party complaining about criminal act of perjury and obstruction of justice in federal civil proceedings should provide evidence of such complaint; the order awarding costs to the prevailing party pursuant to Federal Rules of Civil Procedure 54 (d) (1) included in the final order on merits, is collateral to the final decision; and what should be used to test qualifications for employment; the said questions, which have yet not been, but should be settled by this court.

The Eleventh Circuit created direct conflict with the Second Circuit; when it considered Defendant's evidence in determining whether Plaintiff has met his prima facie burden; and

when it decided on the question of fact, related to existence of similarly situated employees.

A. Complaints of crime require criminal referral

Perjury and obstruction of justice in civil judicial proceedings are criminal acts and require criminal referral for investigation and collection of evidence. A party to civil action should not be held responsible to produce evidence of criminal acts.

Intentional lying under oath, forging of documents and filing of false affidavit in this law suit by Disney and its Executives, Officers, Employees and/or Agents; to tamper with, and defraud the judicial process, are criminal acts.

This court should decide as to, "What is the proper order and nature of proof in complaints of perjury and obstruction of justice in civil judicial proceedings."

B. Awarding costs in final order on merit is integral to the final decision

The district court awarded costs to Disney in the summary judgment on merits and further held that Fed. R. Civ. P. 54(d)(1) provides that costs are allowed to a prevailing party "as of course," unless the court otherwise directs.

Whereas, the court of appeals held that the order awarding costs to Disney is outside the scope of appeal filed by Anesh against granting the final summary judgment to Disney. The court of appeal erred in holding that the costs awarded to the

prevailing party pursuant to Fed. R. Civ. P. 54(d)(1) and included as a part of final judgment is not integral to the final decision and is collateral to the final order on merits.

Subsequently, in the *Revised Federal Rules of Civil Procedure,* the term, "costs are allowed to a prevailing party "as of course," " was deleted and was replaced with "Unless a federal statute, these rules, or a court order provides otherwise, costs — other than attorney's fees — should be allowed to the prevailing party."

This court should decide as to, "Whether the order to award costs to the prevailing party, pursuant to Federal Rules of Civil Procedure 54 (d) (1), included in the final order on merits, is collateral to the final decision."

C. Absence of proper test of qualification for employment

Even though Disney forged the documents related to Anesh's qualification for the job, Anesh presented evidence of his qualification for the job position based on his previous work experience; evaluations of his abilities and qualification for the position by the management and recruiting department, and his subsequently placement on the waiting list for the position by the recruiting department; his successful completion of on the job training; and also his successful performance of the duties and responsibilities of the position. The court of appeal held that Anesh failed to establish that he was qualified for the job.

This Court, in *McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973),* held that this issue that, "what may properly be used to test qualifications for employment." is not present in this case; and did not decided the issue, at that time.

This court should decide as to, "What may properly be used to test qualifications for employment ?"

D. Consideration of Defendant's evidence in determining Plaintiff 's prima facie case

Anesh presented evidence that he is a member of protected class; is qualified and applied for the job; that he was rejected, and less qualified applicants outside the protected class were selected for the position.

Creating direct conflict with the Second Circuit, the Eleventh Circuit while applying Supreme Court holding in *McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)* considered Disney's evidence in determining whether Anesh has met his prima facie burden.

Whereas in *Graham v. Long Island Rail Road* 230 F.3d. 34 (2nd Cir. 2000); the court of appeals applying *McDonnell Douglas* analysis held in pertinent part that;

"Before focusing on this evidence however, the district court first concluded in light of Domenici's unrefuted evidence that plaintiff failed to make a prima facie showing. Yet since the burden at this stage of the McDonnell Douglas

analysis rests solely on Graham, it was premature to consider LIRR's evidence.

The burden to produce evidence does not shift to a defendant in a discrimination claim until a prima facie case has been established."

This court should decide this issue, as the Eleventh Circuit's decision is not consistent with this Court's precedent, and the court of appeals are in conflict on the question presented.

E. Decision on existence of similar situated employees

Creating direct conflict with the Second Circuit, the Eleventh Circuit decided the question of fact related to the existence of similar situated employees. The court of appeals for the eleventh circuit held that Anesh failed to establish that he was treated differently from other similarly situated employees.

Whereas in *Taylor v. Brentwood Union Free Sch. Dist.*, 143 F.3d 679, 684 (2d Cir. 1998), cert. denied, 525 U.S. 1139 (1999); the court of appeals (explaining that jury was asked to decide whether the plaintiff was treated differently from similarly situated white employees), held that; two employees are similarly situated ordinarily presents a question of fact for the jury.

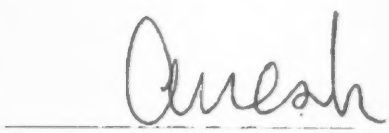
This court should decide this issue, "Whether employees are similarly situated presents a question of fact for jury ?" as the court of appeals are in conflict on the question presented.

CONCLUSION

The petition for the writ of certiorari should be granted.

Respectfully submitted.

Dated: Jan. 14, 2008



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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

07-11409-DD

Anesh Gupta, Appellant

Versus

Walt Disney World Company, Appellee

Nov. 27, 2007

Before MARCUS, WILSON and PRYOR, Circuit Judges. PER CURIAM:

Anesh Gupta, an Asian male, appeals pro se the summary judgment entered in favor of his former employer, Walt Disney World Company, and against Gupta's complaint of employment discrimination. See 42 U.S.C. §§ 1981, 2000e- 2(a). Gupta contends that Walt Disney illegally discriminated against him when it refused to allow Gupta to work as a server at Akershus, a restaurant in the Norwegian Pavillion of the EPCOT theme park, because he was not "culturally authentic" to Norway. Gupta also

appeals the denial by the district court of Gupta's motion to compel discovery without first holding an evidentiary hearing.
We affirm.

I. BACKGROUND

Gupta worked at Walt Disney from May to December 2003 as a participant in the college intern program. He then worked in a second internship program from June 2004 to May 2005, when the program ended. During this time, Gupta worked in various capacities, including as a role hopper and a door host at the nightclub, Motion.
In March or April 2005, Gupta worked extra hours as a stocker at Akershus in the Norway Pavilion at Epcot. The Norway Pavilion is a component of the World Showcase of Epcot, a permanent international exposition that strives to provide guests an opportunity to experience and learn about the culture, traditions, and accomplishments of eleven nations of the world. Many positions in the World Showcase are staffed by "Cultural Representatives," who interact with guests and share the culture, tradition, language and history of the country they are representing. Walt Disney requires Cultural Representatives to speak the language of the country they represent and possess an adequate command of English to communicate and explain their customs, traditions, and culture to guests based on the representative's first-hand experience. According to Walt Disney, as long as an individual meets

these standards, that individual can serve as a Cultural Representative regardless of their national origin, race, or color. Walt Disney presented evidence of individuals of "Asian descent" who qualified to work as Cultural Representatives in the Norway Pavilion because they were culturally authentic, as well as individuals who are Middle Eastern, Asian, and black who were Cultural Representatives in the Canada Pavilion. Servers at the Norwegian restaurant are required to be Cultural Representatives. From 2002 to April 2005, Walt Disney employed some individuals as servers during the "Princess Storybook Breakfast," which was held at the Norway Pavilion, who were not culturally authentic to Norway, because the breakfast was an American meal and was served before the opening of the larger World Showcase later in the day. In April 2005, Walt Disney changed the breakfast to an all-day dining experience with a Norwegian theme. Use of individuals not culturally authentic to Norway as servers was discontinued, though non-culturally-authentic individuals continued to work some hours until enough culturally authentic servers were hired and trained.

In April or May 2005, Gupta expressed interest in working as a server at the Norwegian restaurant. Gupta took training classes to become a server, and worked some hours as a server at the Norwegian restaurant during two weeks in June 2005. Gupta primarily worked the breakfast shift, but testified that he also worked at least

one lunch shift. On June 26, 2005, Gupta was informed that he could no longer work as a server at the Norwegian restaurant. James McAndrew, the other nonculturally- authentic server identified by Gupta, was informed on June 28, 2005, that he could no longer work as a server at the Norwegian restaurant. Gupta brought this action against Walt Disney and alleged employment discrimination on the basis of race, national origin, and color. At the close of discovery, Gupta moved to compel Walt Disney to produce the "actual" work schedules for the Norwegian restaurant. Gupta alleged that the work schedules produced by Walt Disney were fabricated. The district court denied the motion.

Walt Disney moved for summary judgment, which the district court granted.Gupta appealed. Walt Disney has moved to strike portions of Gupta's reply brief.

II. STANDARDS OF REVIEW

We review a denial of discovery order for abuse of discretion. Moorman v.UnumProvident Corp., 464 F.3d 1260, 1264 (11th Cir. 2006).

We review a grant of summary judgment de novo. Wilson v. B/E Aerospace, Inc., 376 F.3d 1079, 1085 (11th Cir. 2004). Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). When reviewing the

record, "we view the evidence in the light most favorable to the non-moving party." Wilson, 376 F.3d at 1085.

III. DISCUSSION

Gupta argues that the district court erred when it entered summary judgment against his complaint of employment discrimination. Gupta contends that he presented both direct and circumstantial evidence of discrimination and that Walt Disney's explanation about cultural authenticity requirements was created after the fact to cover illegal discrimination. Gupta also argues that the district court abused its discretion when it denied his motion to compel additional discovery.

Before we address Gupta's arguments, we grant Walt Disney's motion to strike portions of Gupta's reply brief. The allegations about which Walt Disney complains were not supported by citation to the record, see 11th Cir. R. 28-1(I), and the evidence attached to Gupta's brief was not presented to the district court, see Selman v. Cobb County Sch. Dist., 449 F.3d 1320, 1332 (11th Cir. 2006).

A. The District Court Did Not Err When It Granted Summary Judgment In Favor of Walt Disney and Against Gupta's Complaint of Employment Discrimination.

Gupta's argument that he presented direct evidence of illegal discrimination fails. Walt

Disney's explanation that Gupta was not allowed to work at the Norwegian restaurant because Gupta was not "culturally authentic" is not direct evidence of illegal discrimination. The evidence established that "cultural authenticity" did not depend on an individual's national origin, race, or color, but was entirely dependent on the ability of an individual to share authentically a culture.

Because Gupta does not have direct evidence of discrimination, he must rely on circumstantial evidence under the burden-shifting framework of McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817 (1973), and Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 101 S. Ct. 1089 (1981). See Vessels v. Atlanta Indep. Sch. Sys., 408 F.3d 763, 767–68 (11th Cir. 2005). The employee is entitled to an inference of discrimination when he establishes a prima facie case. Id. "A plaintiff establishes a prima facie case of disparate treatment by showing that [he] was a qualified member of a protected class and was subjected to an adverse employment action in contrast with similarly situated employees outside the protected class." Wilson, 376 F.3d at 1087.

Gupta failed to establish a prima facie case of discrimination for at least two reasons. First, Gupta did not establish that he was qualified to be a server at the Norwegian restaurant. Walt Disney required servers at the Norwegian restaurant to be culturally authentic to Norway. Gupta admits that he has visited Norway for one to two days and does not have first-hand knowledge of Norwegian culture.

Although individuals not culturally authentic to Norway, including Gupta, previously worked in the Norwegian restaurant, the evidence established that Gupta and the other non-culturally-authentic workers worked either during an American breakfast shift, when cultural authenticity was not required, or worked in violation of Walt Disney policy. Second, Gupta failed to establish that he was treated differently from other similarly situated employees. Walt Disney informed the other non-culturally-authentic server, McAndrew, that he could no longer serve at the Norwegian restaurant two days after it informed Gupta. "If a plaintiff fails to show the existence of a similarly situated employee, summary judgment is appropriate where no other evidence of discrimination is present." Holifield v. Reno, 115 F.3d 1555, 1562 (11th Cir. 1997).

B. The District Court Did Not Abuse Its Discretion When It Denied Gupta's Motion To Compel Production.

Gupta argues that the district court abused its discretion when it denied Gupta's motion to compel discovery about the Walt Disney work schedules, which Gupta alleges were forged, without holding an evidentiary hearing. We disagree. Gupta provided no support for his allegation that Walt Disney removed his name from the work schedules produced during discovery. Walt Disney presented evidence that

the records produced were copies of electronically maintained records, kept in the usual course of business, and were printed off the computer in the form in which they were maintained. The district court did not abuse its discretion when it denied Gupta's motion to compel additional discovery without holding an evidentiary hearing.

IV. CONCLUSION

The summary judgment in favor of Walt Disney is **AFFIRMED.**

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

07-11409-II

Anesh Gupta, Appellant

Versus

Walt Disney World Company, Appellee

Aug. 21, 2007

ORDER

Before TJOFLAT, WILSON, and PRYOR, Circuit Judges.

BY THE COURT:

Appellant's "Motion to Stay Proceedings" asks this Court to stay execution of the July 9, 2007, amended bill of costs issued by the district court. Because Appellant did not appeal the July 5, 2007, order concerning taxation of costs or the amended bill of costs, the relief Appellant seeks is outside the scope of this appeal. See Bogle v.

Orange County Bd. of County Commissioners, 162 F.3d 653, 661 (11th Cir. 1998); LaChance v. Duffy's Draft House, Inc., 146 F.3d 832, 837 (11th Cir. 1998). The motion is therefore **DENIED.**

APPENDIX C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG

Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

Mar. 27, 2007

ORDER

I. INTRODUCTION

Plaintiff Anesh Gupta alleges that his current employer, Defendant Walt Disney World Company ("Worldco"), discriminated against him on the basis of his race, color and national origin. Gupta asserts claims pursuant to 42 U.S.C. § 1981 and Title VII, 42 U.S.C. § 2000e *et seq.* Worldco has filed a motion seeking summary judgment.

After carefully considering the parties' submissions, the Court determines that Worldco is due summary judgment for the reason that no reasonable jury could conclude, from the facts viewed in the light most favorable to Gupta, that Worldco violated federal anti-discrimination law in its treatment of Gupta.

II. BACKGROUND[1]

Gupta contends that he belongs to the Asian (Indian) race, is a person of (brown) color, and that his country of origin is India. Currently, he is employed as a part-time service bartender at Le Cellier, a restaurant located at the Canadian Pavilion in Worldco's Epcot attraction.

Gupta worked at Worldco from May to December 2003 as part of the company's College Program (a six-month internship program for college students). He then worked in a second internship program starting in June 2004. In May 2005, the College Program ended, and Gupta accepted a position as a part-time service bartender at Le Cellier.

Beginning in March or April 2005, Gupta picked up extra hours as a stocker at the Restaurant Akershus ("Akershus"), a Norwegian restaurant located in the Norway Pavilion at Epcot. The Norway Pavilion is a component of

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[1] Some of the facts recited herein are lifted - verbatim in some instances - from the parties' case statements in the Joint Pretrial Statement (Doc. 124).

Epcot's World Showcase. The World Showcase, which opened in 1982, is a permanent international exposition whose mission is to provide the public an opportunity to experience and learn about the culture, traditions and accomplishments of eleven nations from around the world. Epcot guests experience the particular country through each pavilion's portrayal of life in the represented country, including its architecture, food, merchandise and costumes. Guests learn about the country by interacting with Cultural Representatives of the country who share with guests their culture, traditions, language, and history[2].

The defining job responsibility of a Cultural Representative is to share with the public the customs, traditions and culture of the foreign country they represent based on their firsthand experience of life in that country. To maintain the authenticity of the experience, Cultural Representatives wear costumes accurately depicting their country, and typically wear a badge stating what part of the country they lived in. Worldco requires its Cultural Representatives to speak the language of the country they represent and possess adequate command of English to communicate and explain their customs, traditions and culture to the public based on their own first-hand experience. However, as

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[2] In Worldco's view, this "sharing" experience "in effect transport[s] [the guests] to the country of the pavilion." Doc. 124 at 8.

long as someone meets these standards, they can serve as Cultural Representatives regardless of their national origin, race or color[3]. Numerous individuals who meet these criteria, yet who have a different race, color or national origin than the one associated with the country still work as Cultural Representatives as long as they meet the above criteria. Of particular relevance to this case, an employee whose heritage is Asian (Indian), but who grew up in Norway[4],speaks Norwegian, and has personal knowledge of that country's traditions and culture, works as a Cultural Representative in the Norway Pavilion.[5]

In general, Cultural Representatives at Worldco staff positions where guest interaction is regular or likely, such as server, greeter, and bartender positions. The job duties of those positions are not the mere functions of waiting on

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[3] Consequently, Worldco's BFOQ defense has no logical application

[4] Gupta contends this person was also born in Norway, and was not employed by Worldco until September 2006, after this lawsuit was filed.

[5] Worldco maintains a cultural exchange program pursuant to federal law, under which individuals from other countries can obtain a nonimmigrant "Q-1" visa and work in the United States. *See* 8 C.F.R. § 214.2(q). To qualify as a Q-1 program, the international cultural exchange program must meet specific criteria, the most important being educating the public about what life is like in different countries. However, Worldco's Cultural Representatives do not have to possess a Q-1 visa; any Worldco employee who is culturally authentic to a particular country can work as a Cultural Representative of that county.

tables or seating people, but also require people to impart the culture and traditions of the country to the guests. In contrast, positions such as service bartenders, general tellers (a/ka/ money counters), or management positions where guest interaction is unlikely are not staffed with Cultural Representatives.

It is undisputed that Gupta is not culturally authentic to Norway. However, while working as a stocker at the Norway Pavilion in March and April 2005, Gupta became aware that a non-authentic, Caucasian employee named Jim McAndrew was picking up extra hours as a server at Akershus.[6]

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[6] Worldco admits that beginning in late 2002, non-authentic employees were allowed to work as servers at a "Princess Storybook Breakfast" at Akershus prior to the 11:00 a.m. opening of the rest of the World Showcase. Worldco explains that because this breakfast was not meant to be a part of the complete Norway experience, individuals not culturally authentic to Norway were allowed to pick up extra hours as servers during the breakfast shift when needed. Worldco states that in April 2005 the Princess Storybook Breakfast was changed to "Princess Storybook Dining at Akershus Royal Banquet Hall," an all-day character dining experience offered throughout the day at breakfast, lunch and dinner, and specific Norwegian theming was introduced. The company contends that because the event was now themed around Norway, and was offered while the World Showcase was open, management decided that Akershus should offer a consistent level of authenticity throughout the entire day in order to preserve the guest experience of being in Norway. However, Worldco states that since not enough culturally authentic, trained servers were available to make this change completely and immediately, the company allowed non-authentic workers to pick up extra hours until enough culturally authentic servers had arrived and were trained. Worldo insists this only occurred during the breakfast shift;

Gupta expressed an interest to management in also working as a server there. To that end, he attended general training classes to become a server, was placed on a waiting list to be hired as a server at Akershus, underwent four days of server training at the restaurant, and then began working as a part-time server at Akershus while waiting for a fulltime position to open up.

Shortly thereafter, a labor manager encountered Gupta and discovered that he was working as a server at the Norwegian Pavilion. The labor manager inquired of Worldco's immigration compliance department whether Gupta could properly work in that position given the company's cultural authenticity requirements. This commenced a chain of events that culminated in Gupta being told that he could not work as a server at Akershus. Soon thereafter, management informed Jim McAndrew that he, too, could no longer work as a server there. By the end of June 2005, no more extra hours were offered to any individuals as servers at Akershus unless they were qualified as Cultural Representatives of Norway.

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however, Gupta has presented some evidence that he and Jim McAndrew worked some lunch shifts as servers at Akershus. Worldco says if this was so, it was not in accordance with the company's practice. However, whether Gupta and McAndrew worked only breakfast shifts, or lunch shifts as well, is immaterial. What matters is that when Worldco decided to prevent non-authentic employees from continuing to work as servers at Akershus, it did so on cultural authenticity grounds and it applied the policy to both Gupta and McAndrew.

Gupta objected to his not being allowed to work as a server in Akershus, and pursued his grievance through various levels of Worldco. The company held firm to its decision. This lawsuit ensued.

III. SUMMARY JUDGMENT STANDARD

A motion for summary judgment should be granted when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). "The party seeking summary judgment bears the initial burden of identifying for the district court those portions of the record 'which it believes demonstrate the absence of a genuine issue of material fact.'" *Cohen v. United Am. Bank of Cent. Fla.*, 83 F.3d 1347, 1349 (11th Cir. 1996) (quoting *Cox v. Adm'r U. S. Steel & Carnegie*, 17 F.3d 1386, 1396, *modified on other grounds*, 30 F.3d 1347 (11th Cir. 1994)). "There is no genuine issue for trial unless the non-moving party establishes, through the record presented to the court, that it is able to prove evidence sufficient for a jury to return a verdict in its favor." *Cohen*, 83 F.3d at 1349. The Court considers the evidence and all inferences drawn therefrom in the light most favorable to the non-moving party. *See Hairston v.Gainesville Sun Pub. Co.*, 9 F.3d 913, 918 (11th Cir. 1993).

IV. ANALYSIS

In the first place, based on the undisputed evidence, it was not race, color or national origin that disqualified Gupta from working as a server at Akershus. Rather, it was the fact that Gupta did not meet Worldco's requirement that servers be culturally authentic to Norway. Had Gupta spoken Norwegian, or been raised in Norway (regardless of where he was born), or had first-hand knowledge of that country's customs and traditions, he could have worked as a server at Akershus under Worldco's cultural authenticity policy regardless of his race, color or national origin. On this basis alone, Gupta's discrimination claims fail as a matter of law.

Further, there is not a shred of evidence that Worldco otherwise treated Gupta differently on account of his race, his color, or his national origin. Worldco might have been clearer in communicating its cultural authenticity policy to Gupta, and the company may have even created a false impression in Gupta that he could work as a server at Akershus. However, the fact remains that Worldco removed Gupta (and McAndrew) as servers at Akershus solely because of the company's concern that servers in that restaurant be culturally authentic to Norway. This was a legitimate, non-discriminatory reason for barring Gupta from working as a server at Akershus, and Gupta has not presented any evidence creating a jury issue regarding pretext. At most, Gupta's evidence demonstrates that Worldco was (perhaps unwittingly, at least as far as higher management

was concerned) violating its own cultural authenticity policy at Akershus, and when the company's immigration compliance department was consulted and clarified the matter, Worldco rectified the situation by ensuring that only culturally authentic servers worked at the restaurant. Gupta may have been an unfortunate casualty of that corrective measure, but he was not a victim of employment discrimination.[7]

V. CONCLUSION

Based on the foregoing, it is ORDERED as follows:

1. The Defendant's Motion for Summary Final Judgment (Doc. 93), filed on December 1, 2006, is **GRANTED**.

2. Plaintiff's Motion In Limine (Doc. 128), filed on February 20, 2007, is **DENIED**.

3. The Defendant's Motion In Limine (Doc. 130), filed on February 23, 2007, is **MOOT**.

4. The Defendant's Motion to Strike Plaintiff's Supplemental Affidavit, etc. (Doc. 144), filed on March 16, 2007, is **DENIED**.

5. Any other pending motions are moot.

6. The Clerk shall enter a final judgment providing that the Plaintiff, Anesh Gupta, shall

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[7] Given its conclusion regarding liability, the Court need not reach Worldco's punitive damages argument.

take nothing on his claims against the Defendant, Walt Disney World Company. The judgment shall further provide that the Defendant shall recover its costs of action.

7. The Clerk shall close this case.

DONE and **ORDERED** in Chambers, in Orlando, Florida on March 27, 2007.

/s/ ANNE C. CONWAY
ANNE C. CONWAY
United States District Judge

APPENDIX D

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG

Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

Nov. 27, 2006

ORDER

This cause comes before the Court on the Plaintiff's Objection (Doc. No. 89) to the Magistrate Judge's Order denying the Emergency Motion to Compel Production (Doc. No. 86). Plaintiff has failed to demonstrate that the Magistrate Judge's ruling is clearly erroneous or contrary to law.

Based on the foregoing, it is ordered as follows:

1. Plaintiff's Objection (Doc. No. 89) is **OVERRULED.**

2. The Magistrate Judge's Order (Doc. No. 86) is **AFFIRMED.**

3. Plaintiff's request for a thirty day extension of the discovery deadline is **DENIED.**

DONE and **ORDERED** in Chambers, in Orlando, Florida on November 27, 2006.

/s/ ANNE C. CONWAY
ANNE C. CONWAY
United States District Judge

APPENDIX E

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG

Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

Nov. 03, 2006

ORDER

This cause came on for consideration without oral argument on the following motion:

MOTION: EMERGENCY MOTION TO COMPEL PRODUCTION (Doc. No. 82)
FILED: October 27, 2006

THEREON it is ORDERED that the motion is **DENIED**.

Pro se plaintiff Anesh Gupta moves on an emergency basis to compel Defendant Walt Disney World Company ("Worldco") to produce documents. The motion, which was filed on the last day of the discovery period, did not constitute an emergency. After reviewing all of the relevant documents, the Court denies Gupta's motion to compel.

1. Daily Individual Tips and Gratuity Report

Gupta arguess that Worldco maintains daily tips and gratuity records that would show individual receipts of sale, tips received from that sale and the time of the sale. Gupta supports his position by referring to Exhibits E2 and F2 as exemplars of the records he desires. Docket 73, Exh.1. Worldco contends that employees may generate the documents Gupta produced as Ex. E2 and F2 on the day that they work, but that it maintains tip and gratuity information in summary form and does not maintain the individual reports that an employee may generate. Docket 84 at 3. Worldco further states that it does not maintain records of when during the day an employee received a tip. *Id.* The Court has reviewed Exhibits E2 and F2 and finds they do not support Gupta's contention that an individual tip report of the type Gupta seeks would show when tips are given. Rather, the time reflected on Exhibits E2 and F2 is the time when the report was generated. Worldco has produced other records of Gupta's tips and the requested information would not provide any additional

relevant information. The Court, therefore, denies the motion to compel production of Gupta's daily tip records.

2. Documents Listed on Worldco's Privilege Log

Although Gupta refers to Worldco's privilege log, he does not identify any specific document that he seeks to compel. Worldco similarly does not know what documents are being sought.[8] After reviewing Worldco's arguments, that Court finds that Worldco has properly asserted its privileges.Gupta's motion to compel privileged documents, therefore, is denied.

3. Norway Attraction Schedules

Gupta contends that the schedules Worldco produced for the Norway attraction were fabricated and he wants the "actual" schedules produced. Worldco asserts that the schedules it has produced are complete. It is apparent from the documents produced that the schedule data is maintained electronically and that a sort run by cast member does not exclude particular employees, as Gupta contends. The Court cannot compel Worldco to produce non-existent documents. Therefore, Gupta's motion to compel additional Norway Attraction schedules is denied.

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[8] Worldco's lack of knowledge as to what privileged documents are at issue belies Gupta's statement that he conferred about this issue prior to filing his motion.

4. LeCellier Restaurant Schedules

Worldco objected to Gupta's request that it produce restaurant schedules for LeCellier for over a two year period on the grounds that the request was irrelevant and unduly burdensome. Gupta's motion presents no argument demonstrating the relevance of the requested documents. Gupta's motion to compel the restaurant schedules, therefore, is denied.

5. Casting Records of Kassim and Witherspoon

Gupta requested the production of "casting records" for two Worldco employees who work at the Restaurant of Canada Pavilion. Worldco objected that the term "casting records" was vague and ambiguous, but nonetheless agreed to produce the employees' job applications. Gupta argues that Worldco knows what "casting records" are, but fails to explain it to the Court. As Gupta's motion fails to describe with sufficient specificity what additional documents were sought by the document request, the Court denies the motion to compel.

6. Daily Individual Tips and Gratuity Records of McAndrew

Gupta also requested that Worldco produce nearly six years of tips records related to another employee, McAndrew, who worked as a server in the Norway Pavilion. Worldco objected that the

request was overbroad, unduly burdensome, called for irrelevant evidence and called for confidential financial information of a third party. Worldco offered to produce weekly tip records from July 2003 to June 2005 (the dates existing within Gupta's request that were still maintained by Worldco), provided Gupta acknowledged the confidentiality agreement he signed applied to the records. Gupta refused to reaffirm the confidentiality agreement and refused to accept the reports in the form that Worldco offered. Again, Gupta is hoping to prove that another employee worked the lunch shift based on the tips report, information that Worldco repeatedly has stated does not exist in its records. The Court, therefore, denies Gupta's motion to compel.

DONE and **ORDERED** in Orlando, Florida on November 3, 2006.

/s/ JAMES G. GLAZEBROOK
JAMES G. GLAZEBROOK
UNITED STATES MAGISTRATE JUDGE

APPENDIX F

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG

Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

Apr. 26, 2007

ORDER

This cause came on for consideration without oral argument on the following motion:

MOTION: MOTION FOR TAXATION OF COST (Doc. No. 157)
FILED: April 10, 2007

THEREON it is **ORDERED** that the motion is **DENIED** as moot.

Defendant Walt Disney World Company has moved to tax costs based on its status as a prevailing party. Docket 157. Fed. R. Civ. P. 54(d)(1) provides that costs are allowed to a prevailing party "as of course," unless the court otherwise directs. The clerk is permitted to tax costs after one day's notice, and the clerk's action may be challenged by motion. The Clerk in fact has taxed costs against Plaintiff Anesh Gupta pursuant to Defendant's motion. As Defendant's motion was unnecessary under the rules and costs have been taxed by the Clerk, the motion is denied as moot.

DONE and **ORDERED** in Orlando, Florida on April 26, 2007.

/s/ JAMES G. GLAZEBROOK
JAMES G. GLAZEBROOK
UNITED STATES MAGISTRATE JUDGE

APPENDIX G

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG

Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

Mar. 15, 2006

ORDER

Upon the Court's review of this case, it is ORDERED as follows:

1. Plaintiff's Motion for Leave to Amend Complaint (Doc. 17), filed December 27, 2005, is GRANTED. Plaintiff shall file and serve a second amended complaint on or before March 27, 2006. **This is Plaintiff's final opportunity to amend his pleadings; no further amendments will be**

allowed. Additionally, in deciding which claims to include in his amended pleading (for example, whether to assert claims pursuant to 42 U.S.C. § 1983 or 28 U.S.C. § 1361), Plaintiff shall review and consider Fed. R. Civ. P. 11, which, among other things, subjects parties to sanctions for asserting claims that are factually unsupported and/or legally unsupportable.

2. The Defendant's Motion to Dismiss Amended Complaint and/or to Strike Exhibits Thereto (Doc. 16), filed December 20, 2005, is GRANTED IN PART AND MOOT IN PART. The Motion is GRANTED insofar as it seeks an Order striking Plaintiff's affidavit attached as an exhibit to the Amended Complaint. Because it contains immaterial, impertinent and scandalous material, the affidavit attached to the Amended Complaint is STRICKEN pursuant to Fed. R. Civ. P. 12(f).

In all other respects, the Motion is MOOT by virtue of the Court's ruling permitting Plaintiff to file and serve a second amended complaint. The Defendant may renew its arguments, if appropriate, in response to Plaintiff's second amended pleading.

3. Defendant's Motion to Strike Plaintiff's Response . . ., Reply . . . and Notice (Doc. 33), filed February 2, 2006, and Defendant's Motion to Strike Plaintiff's "Supplements" (Doc. 40), filed March 3, 2006, are GRANTED.

Plaintiff has filed multiple documents in violation of Local Rule 3.01(a) & (b), which limit to one the number of legal memoranda which a party may file in support of, or in opposition to, a

motion. Many of these filings contain immaterial, scandalous and impertinent information, requiring that they be stricken in accordance with Fed. R. Civ. P. 12(f). The Defendant's asserted violation of immigration laws and tax evasion, and the alleged criminal behavior by Defendant's employees, are irrelevant to Plaintiff's claim of job discrimination.

Henceforth, upon pain of sanctions, Plaintiff shall comply with Local Rule 3.01 and shall refrain from injecting into this case issues that are obviously irrelevant to his employment discrimination claim. Although Plaintiff is proceeding *pro se*, that status does not relieve him of the obligation to follow the rules governing litigation in federal court.

4. The following filings are STRICKEN:

a. Plaintiff's Supplement [to] Motion for Leave to Amend Complaint and Supplement [to] Reply to Defendant's Motion (Doc. 19), filed December 29,2005;

b. Plaintiff's Additional Supplement [to] Motion for Leave to Amend Complaint and Additional Supplement [to] Reply to Defendant's Motion (Doc. 22), filed January 4, 2006;

c. Plaintiff's Notice of Filing Supporting Documents in Support of Plaintiff's Complaint and Motion for Leave to Amend Complaint (Doc. 29), filed January 19, 2006;

d. Plaintiff's Supplemental Reply to Defendant's Motion (Doc. 30), filed January 19, 2006;

e. Plaintiff's Res[p]onse to Defendant's Opposition to Plaintiff's Motion for Leave to Amend Amended Complaint (Doc. 32), filed January 25, 2006;

f. Plaintiff's Supplement in Support of Plaintiff's Complaint and Motion for Leave to Amend Complaint, and in Support of Plaintiff's Responses to Deny All the Motions of Defendant (Doc. 38), filed February 13, 2006; and

g. Plaintiff's Supplement in Support of Plaintiff's Complaint and Motion for Leave to Amend Complaint, and in Support of Plaintiff's Responses to Deny All the Motions of Defendant (Doc. 39), filed March 1, 2006.

DONE and **ORDERED** in Chambers, in Orlando, Florida on March 15, 2006.

/s/ ANNE C. CONWAY
ANNE C. CONWAY
United States District Judge

APPENDIX H

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG

Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

Jan. 04, 2007

ORDER

This cause comes before the Court for consideration of Plaintiff's Motion to Reconsider Order, etc. (Doc. 98) and Defendant's Opposition (Doc. 107) thereto. By means of this motion, Plaintiff asks the Court to reverse that portion of its March 15, 2006 Order (Doc. 44) striking Plaintiff's filings which included allegations that Defendant had violated immigration laws, had committed tax evasion, and that Defendant's employees had engaged in criminal activity. The

Court struck those filings on the basis that such allegations were irrelevant to Plaintiff's claim of job discrimination, and were thus immaterial, scandalous and impertinent. Now, Plaintiff claims that he needs to renew these allegations to rebut Defendant's summary judgment motion insofar as Defendant relies on its Cultural Exchange rogram as a basis for the challenged employment decision. In that regard, Plaintiff suggests that Defendant's Cultural Exchange Program application is subject to revocation by federal immigration authorities.

The Court determines that Plaintiff's position is without merit. Plaintiff has not demonstrated any basis for alteration of the Court's prior order. Even if grounds exist for immigration officials to revoke Defendant's Cultural Exchange Program application, such is a matter within the province of that government agency. Plaintiff has not shown that he has standing to litigate the revocation issue in this lawsuit, or that this Court has jurisdiction to consider that matter absent prior agency action. Finally, it remains the case that any irregularities in Defendant's Cultural Exchange Program are irrelevant to the ultimate question of whether Plaintiff has been discriminated against.

Based on the foregoing, it is ORDERED that Plaintiff's Motion to Reconsider Order, etc. (Doc. 98), filed on December 13, 2006, is DENIED.

DONE and **ORDERED** in Chambers, in Orlando, Florida on January 4, 2007.

/s/ ANNE C. CONWAY
ANNE C. CONWAY
United States District Judge

APPENDIX I

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

6:05-cv-1432-Orl-22JGG
Anesh Gupta, Plaintiff

Versus

Walt Disney World Company, Defendant

May 05, 2007

ORDER

Plaintiff's "Motion for Leave of the Honorable Court" (Doc. 162), filed on April 25, 2007, is DENIED. As this Court has ruled repeatedly, *see* Docs. 44 & 109, evidence of immigration law violations, tax evasion, and illegal drug use is wholly irrelevant to Plaintiff's claim of employment discrimination.

DONE and **ORDERED** in Chambers, in Orlando, Florida on May 2, 2007.

/s/ ANNE C. CONWAY
ANNE C. CONWAY
United States District Judge